

USACE Suppl 1 to AR 690-200  
Chapter 2 13

DEPARTMENT OF THE ARMY  
U.S. Army Corps of Engineers  
Washington, D.C. 203 14  
CECC-ZA

USACE Supplement 1 to AR 690-200  
Chapter 213

13 July 2001

Civilian Personnel  
Civilian Attorneys Under the Qualifying Authority of  
the Chief Counsel, USACE

Issue of further supplements to this regulation  
is prohibited except upon approval of CDR USACE  
(CECC-ZA), Washington, DC 203 14

AR 690-200, Chapter 213 is supplemented as follows:

Page 4-1, paragraph 4-3, Qualifying Authority. Add the following to subparagraph b.  
USACE procedures are published as Appendix D to this regulation.

Page C-2 Following Appendix C, add Appendix D (Pages D-1 through D-14).

FOR THE COMMANDER:



ROBERT CREAR  
Colonel, Corps of Engineers  
Chief of Staff

This supplement supersedes USACE Supplement 1 to AR 690-300, 302, 13 July 1984

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20020709 154

**APPENDIX D**  
**CIVILIAN ATTORNEYS UNDER THE QUALIFYING AUTHORITY**  
**OF THE CHIEF COUNSEL, USACE**

**D-1. SCOPE**

a. General. This Appendix D supplements and should be read in conjunction with AR 690-200, Chapter 213, Subchapter 4, Employment of Civilian Attorneys. It applies to all U.S. Army Corps of Engineers (USACE) civilian attorneys (including Real Estate attorneys), law clerk trainees and legal interns appointed under the qualifying authority of the Chief Counsel, USACE. Judge advocates assigned to USACE, usually as part of the military honors program, are under the qualifying authority of The Judge Advocate General.

b. Excepted Service. Attorneys and law clerk trainees are in the Excepted Service (5 C.F.R. 213.3102) and are therefore exempt from requirements of the Competitive Service except where specifically provided by law or regulation. "Attorneys" and "Law Clerk Trainees" are defined in AR 690-200, Chapter 213. This Appendix D prescribes procedures for the recruitment, selection, assignment, promotion, and evaluation of civilian attorneys in USACE. This Appendix D also applies to adverse actions involving civilian attorneys and the outside employment of civilian attorneys. Except as specifically authorized by the Chief Counsel, in accordance with law and regulation, the policies and procedures specified in this Appendix D are mandatory.

**D-2. APPOINTING AUTHORITY**

Not supplemented.

**D-3. AUTHORITY**

a. Qualifying Authority. The Chief Counsel has the authority, without power of re-delegation, to approve the qualifications of all persons considered or recommended for appointment, transfer, reassignment, promotion, temporary promotion, or detail to positions as civilian attorneys and law clerk trainees, in grades GS-15 and below, in USACE. No attorney or law clerk trainee position may be filled without the Chief Counsel's prior approval. Except where specifically provided otherwise, the Chief Counsel's approval of a person's qualifications shall be for the specific position for which qualification approval has been given in accordance with D-9 below. The Chief Counsel also has the authority to approve the recruitment efforts for all attorney and law clerk trainee positions and to establish or approve the procedures utilized in the recruitment and selection of attorneys and law clerk trainees, including the use of a selection or screening panel and its composition.

b. Selecting Official. Selecting officials must follow all procedures established by the Chief Counsel for the recruitment and selection of all civilian attorneys and law clerk trainees. Prior to finalizing the selection of an individual for such a position, the selecting official must obtain the

Chief Counsel's written approval of the proposed selectee's professional qualifications. Selecting officials for the heads of Division, District, Center, or FOA Offices of Counsel must also comply with the requirements of D-7. a. (5) (B) [Recruitment] and D-9. d. [Securing the Prior Approval of the Chief Counsel]. The Chief Counsel reserves the right to review the list of candidates to be considered for any civilian attorney or law clerk trainee position within USACE.

c. Servicing Civilian Personnel Office. In all personnel actions covered by this regulation, the servicing civilian personnel office shall coordinate with the head of the appropriate Office of Counsel.

d. Withdrawal of Approval of Qualifications. The Chief Counsel's qualification approval is a continuing condition of employment for all USACE attorneys. Qualification approval may be withdrawn by the Chief Counsel for good and sufficient reasons, such as an established violation of the Rules of Professional Conduct for Lawyers, AR 27-26. If approval of an attorney's qualifications is withdrawn, that individual may not thereafter be employed by the Department of the Army as an attorney. Applicable procedures required by law or regulation, to include ER 27-2-2, shall apply to actions that could result in the withdrawal of the approval of an attorney's qualifications. In addition, annually in conjunction with the submission of financial disclosure reports, the head of each Division, District, Center, or FOA Office of Counsel will ensure that each of the attorneys in their employing organization is a member in good standing of the bar.

#### **D-4. ESTABLISHING LEGAL OFFICES**

a. General. The establishment of any new legal office in the Army requires the prior approval of the Army General Counsel. A new legal office is defined as an attorney position that is not under the immediate supervision of another military or civilian attorney occupying an attorney position. A request to establish a new legal office shall be submitted in writing to the Chief Counsel, through the division counsel where applicable.

b. Establishing Legal Offices Within a Real Estate Activity.

(1) By delegation from the Army General Counsel, the Chief Counsel has the authority, without power of re-delegation, to approve the establishment of a new legal office within a USACE Real Estate activity. When the establishment of a new Real Estate attorney position would create a new legal office, prior written approval must be obtained from the Chief Counsel. A new legal office in Real Estate is established when the attorney would not be under the direct supervision of another USACE attorney in an attorney position, or when a realty specialist or realty officer position is changed to an attorney position not under the direct supervision of another USACE attorney in an attorney position.

(2) A request to establish a new legal office in Real Estate shall be submitted in writing to the Chief Counsel, through the Division Counsel where applicable. The request must include the position description for the new attorney position. This position description will contain a statement

that the incumbent of the position will coordinate all nationally significant, precedent setting, or other major legal issues with the appropriate Office of Counsel.

#### **D-5. QUALIFICATION REQUIREMENTS (ATTORNEY POSITIONS)**

a. Initial Appointment. It is the policy of the Chief Counsel that attorneys be appointed at the highest grade level for which they qualify for the position advertised. The minimum qualifications for attorneys at the GS-9 through GS-12 grades are set forth in AR 690-200, Chapter 213, Subchapter 4, Employment of Civilian Attorneys. Consistent with the requirements of this Appendix D, recruitment and selection procedures for attorneys must be designed to attract a sufficient pool of highly qualified candidates and to select the applicant who is best qualified on the basis of academic standing, relevant experience and achievement in the legal field, and other relevant factors involving the effectiveness to perform the functions of the position.

b. Exceptions to Minimum Qualifications.

(1) The Army General Counsel may make an exception to the requirement that attorney applicants must be graduates of accredited law schools upon a showing that no well-qualified candidates from accredited law schools are available. A request for exception will be submitted in writing to the Chief Counsel, through the Division Counsel where applicable.

(2) The Chief Counsel may make exceptions to the minimum experience requirements when the individual has special qualifications. A request for an exception will be submitted in accordance with paragraph D-9 below.

#### **D-6. LAW CLERK TRAINEES AND LEGAL INTERNS**

a. Law Clerk Trainees. Law clerk trainee positions may not be filled without the prior approval of the Chief Counsel. Requests for qualification approval will be made in accordance with procedures outlined in paragraph D-9 below and may not exceed 14 months. Except for the civilian honors program (paragraph D-9 below), recruitment efforts will not be specifically targeted for law clerk trainees. Recruitment efforts for attorney positions may provide that recent law graduates may apply and be appointed as a law clerk trainee in the interim period prior to admission to the bar. Law clerk trainees shall be appointed at a grade that credits their special qualifications.

b. Legal Interns.

(1) Legal interns may be appointed for a period not to exceed one year without approval of the Chief Counsel. An extension of the one-year period must be approved by the Chief Counsel, prior to the extension, in accordance with the procedures outlined in paragraph D-9 below.

(2) Using the OPM X-118 Standard for GS-950 series positions, first year law students qualify as a GS-950-05, second-year law students qualify as a GS-950-07, and third-year law students qualify as a GS-950-09.

(3) The appointments made under this authority are generally made under OPM's Student Educational Employment program and shall terminate upon the individual's graduation from law school.

## **D-7. RECRUITMENT AND APPOINTMENT**

### **a. Recruitment.**

#### **(1) Diversity and Affirmative Action.**

(a) It is the Chief Counsel's policy that special attention will be given to increasing the representation of minorities, women, and individuals with disabilities in attorney positions throughout USACE. In this regard, unless a limited area of consideration is approved, every effort must be made to attract highly qualified minority group and women candidates and candidates with disabilities by conducting an outreach recruitment.

(b) Generally, the outreach recruitment effort shall include, but is not limited to, notification to all of the accredited law schools, bar associations, known minority groups and women's organizations in the state of employment and all adjoining states as well as national minority groups and women's organizations.

(c) The heads of each Division, District, Center and FOA Office of Counsel shall annually submit an outreach list of its outreach sources to the Chief Counsel for approval. This list will be submitted by 31 December for the next calendar year.

(d) Unless a limited area of consideration is approved, an outreach recruitment effort will be conducted for all attorney and law clerk trainee positions and is encouraged for legal intern positions when the appointment will be for more than three months. For other than entry-level positions, there may be appropriate justification for limiting the area of consideration. Requests to limit the area of consideration must be approved by the Chief Counsel prior to initiating the recruitment action. These requests will be made in writing and contain an appropriately documented justification.

(e) The head of the legal office initiating the recruitment action has the responsibility for assuring the adequacy of outreach efforts, including providing the servicing personnel office with outreach source lists. Failure to conduct an adequate outreach may result in recruitment delay (see paragraph D-9, below). The Chief Counsel will maintain and publish, by posting on the USACE Legal Services Internet website, a list of national outreach sources. Heads of legal offices initiating recruitment actions are responsible for supplementing the national list of outreach sources with local or regional outreach sources so as to meet the above requirements.

(2) Veterans' Preference. The principles of veterans' preference will be followed to the extent administratively feasible. The availability of preference eligibles, however, does not preclude appointment of a non-preference eligible. Decisions to appoint a non-preference eligible instead of a preference eligible must be based on factors directly relating to job requirements and must be documented.

(3) Vacancy Announcements.

(a) Heads of legal offices initiating recruitment actions for attorney or law clerk trainee positions will send an electronic copy of the vacancy announcement, immediately upon its issuance, to HQUSACE, ATTN: CECC-ZB. The servicing personnel office should assist by timely providing to the head of the legal office initiating the recruitment action a copy of the announcement in an electronically readable format.

(b) In addition to the procedures used by the servicing personnel office to announce vacancies, the Chief Counsel shall electronically distribute all vacancy announcements as follows:

[1] All vacancy announcements will be posted on the USACE Legal Services Internet website.

[2] The vacancy announcement will be sent via e-mail to the designated e-mail address group established to distribute messages to all USACE attorneys, both in Counsel and Real Estate offices.

[3] Servicing personnel offices should ensure that vacancy announcements are distributed to the addresses on the approved outreach list.

(4) Civilian Honors Program. The Chief Counsel has a civilian honors program to recruit, appoint and train highly qualified law school graduates. Prior to initiating a recruitment for a position at or below the GS-12 level, the selecting official will consult with the Chief Counsel to determine the availability of a civilian honors program attorney.

(5) Recruitment Planning.

(a) General. Prior to initiating the recruitment effort for a staff attorney position, the selecting official is encouraged to develop a recruitment and selection plan. Prior to initiating the recruitment effort for the head of a Division, District, Center, or FOA Office of Counsel, the selecting official shall prepare a recruitment and selection plan, and obtain the Chief Counsel's written approval.

(b) Use of Incentives. In developing a recruitment plan, selecting officials are encouraged to use available incentives to attract the maximum number of highly qualified candidates. Such incentives include, but are not limited to: superior qualification appointments; recruitment and relocation bonuses; and payment of permanent change of station (PCS) costs for new appointees.

(c) Recruitment Effort. As part of the qualification approval process (paragraph D-9 below), the Chief Counsel shall review the adequacy of the outreach recruitment effort set forth on ENG Form 4859-R (Figure 1). Appointment to any attorney or law clerk trainee position will not be made until the Chief Counsel issues a letter to the selecting official approving the adequacy of the outreach recruitment effort.

b. Selection. The applicant who is best qualified on the basis of academic standing, relevant experience and achievement in the legal field, and other relevant factors involving the effectiveness to perform the functions of the position shall be selected. The use of face-to-face interviews in this process is required, unless excepted by the Chief Counsel.

c. Notifying Candidates Not Selected. The servicing civilian personnel office will promptly notify candidates not selected for a job vacancy after approval of the selection.

## **D-8. REASSIGNMENT AND PROMOTION**

a. Reassignments. A USACE civilian attorney may, upon approval of the Chief Counsel, be reassigned non-competitively to another civilian attorney position at the same or lower grade. Normally, reassignments will be approved only if both positions have the same or similar duties and responsibilities.

b. Noncompetitive Promotions. The incumbent of a position may be noncompetitively promoted only after the Chief Counsel has approved the incumbent's professional qualifications to assume the increased responsibilities.

c. Obtaining the Chief Counsel's approval. Requests for noncompetitive promotions or reassignments shall be processed in accordance with paragraph D-9 below.

d. Legal Support Outside the Employing Organization Within their respective Divisions, Division Counsels may authorize an attorney to provide legal support to an organization other than the attorney's employing organization, by detail or otherwise, if the support to be provided is within the attorney's qualification approval, is at the same or lesser grade level, and is for 120 calendar days or less. The Chief Counsel shall be notified in writing of all details or temporary assignments authorized by a Division Counsel exceeding 30 calendar days. Assignments or details that exceed 120 calendar days, or that are between Divisions, Centers or FOAs, must have the approval of the Chief Counsel.

## **D-9. SECURING THE PRIOR APPROVAL OF THE CHIEF COUNSEL**

To secure the Chief Counsel's approval of the qualifications of a person recommended for selection as an attorney or law clerk trainee as required by this Appendix D, the following documentation shall be submitted by the selecting official to the Chief Counsel, through the Division Counsel where applicable.

a. Competitive actions. Except for actions involving the head of a Division, District, Center, or FOA Office of Counsel, all competitive actions require the following documentation:

- (1) Memorandum requesting approval of the qualifications of the person recommended for selection;
- (2) The outreach recruitment effort recorded on ENG Form 4859-R (Figure 1);
- (3) Applicable position description;
- (4) DA Form 2600 (Referral and Selection Register);
- (5) Written application of the candidate recommended for selection and of all other candidates on the referral list;
- (6) Written evaluation by the head of the appropriate Division, District, Center, or FOA Office of Counsel of the professional qualifications of the candidate recommended for selection, setting forth the basis for the proposed action; and,
- (7) If applicable, a statement concerning the exception of minimum experience referred to in paragraph D-7b, above.
- (8) If the person recommended for selection has not been a USACE attorney, the following documentation is also required, but does not have to be submitted with candidate's application:
  - (a) Official certificate showing that the candidate recommended for selection is a member in good standing of the bar. This certificate should be dated no more than 3 months before the announcement of the vacancy. [Not required for Law Clerk Trainees];

(b) Sworn statement by the candidate recommended for selection that the candidate's fitness to practice law or conduct as an attorney has never been challenged in any jurisdiction. If either has been challenged, a sworn statement must be submitted giving the facts and circumstances, together with any other explanation that the candidate considers appropriate. This statement should be notarized and should be dated no more than 3 months before the announcement of the vacancy. [Not required for Law Clerk Trainees];

(c) Official transcript of the candidate's law school record and an official statement of his or her relative standing in class. If class-standing information is not obtainable, the substitution of other satisfactory evidence of law school accomplishments is acceptable; and,

(d) Three letters of reference from members of the bar.

b. Non-competitive actions.

(1) If the non-competitive action involves a current USACE attorney, provide the following documentation:

(a) Memorandum requesting authority to effect the personnel action;

(b) Position description to which the attorney will be appointed or reassigned; and

(c) Written evaluation by the head of the appropriate Division, Center, District, or FOA Office of Counsel of the quality of the attorney's work, and an analysis of the attorney's prospective ability to perform the duties and responsibilities of the proposed new position.

(2) If the noncompetitive action does not involve a current USACE attorney, provide the following documentation:

(a) Memorandum requesting approval of the qualifications of the person recommended for selection;

(b) Applicable position description;

(c) Written application of the person recommended for selection;

(d) Written evaluation by the head of the appropriate Division, District, Center, or FOA Office of Counsel of the professional qualifications of the candidate recommended for selection, setting forth the basis for the proposed action;

(e) If applicable, a statement concerning the exception of minimum experience referred to in paragraph D-7b, above;

(f) Official certificate showing that the person recommended for selection is a

member in good standing of the bar. This certificate should be dated no more than 3 months before the announcement of the vacancy;

(g) Sworn statement by the person recommended for selection that the candidate's fitness to practice law or conduct as an attorney has never been challenged in any jurisdiction. If either has been challenged, a sworn statement must be submitted giving the facts and circumstances, together with any other explanation that the candidate considers appropriate. This statement should be notarized and should be dated no more than 3 months before the announcement of the vacancy;

(h) Official transcript of the person's law school record and an official statement of his or her relative standing in class. If class-standing information is not obtainable, the substitution of other satisfactory evidence of law school accomplishments is acceptable; and

(i) Three letters of reference from members of the bar.

c. Selection and Appointment of Heads of Division, District, Center, or FOA Offices of Counsel.

Selecting officials for these positions will consult with the Chief Counsel prior to making a selection. The following documentation shall be forwarded to the Chief Counsel in order to facilitate the consultation:

(1) The recruitment and selection plan as provided in D-7 above;

(2) Applicable Position description;

(3) A written evaluation of the qualifications of each candidate. A recommended candidate for selection will not be identified in the memorandum;

(4) DA Form 2600. This form should not yet document the selection decision; and

(5) Written application of all candidates on the referral list.

(6) Approval for other than a current Army attorney will be given subject to the furnishing of additional documentation for initial appointment as outlined in subparagraph a(8) above.

d. Legal Interns. Legal interns are an important source of candidates for future attorney positions. Selecting officials must exercise prudence in recruiting for and selecting highly qualified law students for legal intern positions. The applicant who is best qualified on the basis of academic standing and relevant experience should be selected. Legal interns may not be converted to law clerk trainees. Legal interns must compete for positions in accordance with paragraph D-7 above. As provided in paragraph D-6b, legal interns may be appointed for a period not to exceed one year without approval of the Chief Counsel. Extension of the one-year initial employment period must have the prior approval of the Chief Counsel. Documentation to secure such prior approval must include:

- (1) Letter requesting authority to effect the extension;
- (2) Description of the recruitment effort conducted at the initial appointment;
- (3) Applicable Position description;
- (4) DA Form 2600;
- (5) The legal intern's initial application;
- (6) Written evaluation by the affected Division Counsel or District Counsel of the applicant's qualifications, setting forth the basis for the extension; and
- (7) Official transcript of the intern's law school record.

#### **D-10. ATTORNEY PERFORMANCE EVALUATION**

a. General. To provide for greater accountability for the quality and timeliness of legal services, the performance of all attorneys under the qualifying authority of the Chief Counsel shall be rated annually by at least one higher level attorney within the legal services system.

b. Heads of Division, District, Center, and FOA Offices of Counsel. An attorney is a representative of clients, an officer of the legal system, and a private citizen having special responsibility for the quality of justice. The heads of Division, District, Center, and FOA Offices of Counsel serve as the senior legal advisor to their respective Commanders/Directors and their staffs and are ultimately responsible for the legal services provided to their respective organizations. The heads of Division, District, Center, and FOA Offices of Counsel report directly to and advise the Commander/Director; however, their professional responsibilities may not, in all instances, be harmonious with the perceived objectives of those they advise.

(1) Before rating the performance of the head of a Division, District, Center, or FOA Office of Counsel, the rater will obtain information about the attorney's performance. The person providing the information to the rater will also rate as part of the official rating chain as defined in AR 690-400, Chapter 4302. Information on heads of District Offices of Counsel will be obtained from the head of the Division Office of Counsel. Information on the heads of Division, Center, or

FOA Offices of Counsel will be obtained from the Office of the Chief Counsel. Information must be furnished to the rater based upon the mandatory criteria set forth in subparagraph b below and should also contain other relevant information regarding the adequacy of legal advice and the management of personnel and other resources. The furnished information must be considered by the rater and senior rater when rating the attorney. A copy of the information will be attached to, and become part of, the official performance rating.

(2) The person being rated is responsible for ensuring that his or her rater and senior rater are aware of the requirements specified in AR 690-200, Chapter 213, paragraph 4-10, and in this section. The rater must timely request information about the attorney's performance from the appropriate office in the chain of command. The senior rater must ensure compliance with these requirements.

(3) The person being rated shall, within 15 days of receipt, send a copy of the completed performance appraisal, including the information received from the next higher level in the chain of command, to the Chief Counsel, ATTN: CECC-ZB.

c. Mandatory Performance Criteria. All heads of Division, District, Center, or FOA Offices of Counsel will be rated on the following criteria, as a minimum. These criteria will be considered together as a major performance objective.

(1) Ensures adequate communication within and between the employing organization and offices at higher and lower levels considering:

(a) The extent to which the head of the legal office maintains awareness of and anticipates issues regarding matters of legal and policy significance occurring in the employing organization and in subordinate field offices; and

(b) The extent to which he or she independently acts on and communicates relevant information in a prompt and meaningful manner to the next higher level legal office.

(2) Ensures responsiveness to requests from officials in higher level legal offices. This criterion concerns how well the legal office obtains factual information and provides legal or policy analysis quickly in response to requests from the higher level legal offices.

(3) Ensures follow up and control to make certain that immediate and subordinate legal offices have complied with higher level legal office guidance. This concerns how successful the head of the legal office is in obtaining compliance with guidance he or she initiates or passes on in response to requests from higher level legal offices.

d. Performance Appraisal Rating Chain.

(1) Heads of Division and District Offices of Counsel. The Counsel providing the information to the rater will also rate as part of the official rating chain as defined in AR 690-400,

Chapter 4302. The rater may not be below the Deputy Commander of the employing organization. The Senior Rater may not be below the Commander of the employing organization.

(2) Heads of Center and FOA Offices of Counsel will be rated by the respective Commander/Director and Senior Rated by the Chief Counsel.

(3) Real Estate Attorneys. If the rater for a Real Estate attorney is not a supervisory attorney, the rater will obtain information about the attorney's performance from the head of the Office of Counsel at the employing organization. The Counsel providing the information to the rater will also rate as part of the official rating chain as defined in AR 690-400, Chapter 4302. The furnished information must be considered by the rater and senior rater when rating the attorney. The head of the Office of Counsel providing the information will be part of the official rating chain. A copy of the information will be attached to, and become part of, the official performance rating.

(4) The rater for all other USACE attorneys shall be the head of the Office of Counsel or other supervisory attorney at the employing organization.

#### **D-11. RECOGNITION INCENTIVES**

a. It is the policy of the Chief Counsel to foster excellence in the USACE legal services mission by recognizing such excellence and by motivating USACE attorneys to high levels of performance and service. Accordingly, all heads of legal offices will appropriately, effectively and consistently use the various types of awards which comprise the Army Incentive Awards Program. See generally, AR 672-20, Chapter 2.

b. Additionally, as authorized by ER 672-1-18, the Chief Counsel has established an Honorary Awards program designed to specifically recognize USACE attorneys and other personnel who have distinguished themselves through their professional excellence and achievement and/or superior performance in support of the USACE legal services mission. A complete description of the Program, including eligibility criteria and nomination forms, can be downloaded from the USACE Legal Services Internet website at [www.hq.usace.army.mil/cecc/maincc.htm](http://www.hq.usace.army.mil/cecc/maincc.htm).

#### **D-12. AGENCY CLASSIFICATION APPEALS**

Classification appeals involving USACE civilian attorneys shall be processed in accordance with AR 690-200, Chapter 213. A copy of all classification appeals shall be sent to the Office of the Chief Counsel, ATTN: CECC-ZB.

#### **D-13. DISCIPLINARY OR ADVERSE ACTIONS**

The Chief Counsel has the responsibility to assure that no unwarranted disciplinary or adverse action is taken against a USACE attorney based solely, or in part, on the substance of his or her complete and accurate legal advice. The Chief Counsel shall be notified before any disciplinary or performance-based adverse action is initiated against a USACE civilian attorney including, but not

limited to, reprimand, suspension, involuntary reassignment, reduction in grade, or separation from federal service. The head of the affected Office of Counsel shall notify the Chief Counsel immediately in writing of the proposed disciplinary or adverse action. Such notification shall include, as a minimum, the nature of the charge or charges against the attorney and a summary of the facts and circumstances surrounding each charge. No disciplinary or performance-based action shall be initiated until the Chief Counsel makes a finding that it is not based solely or in part on the substance of the attorney's complete and accurate legal advice.

#### **D-14. ASSISTANCE TO ATTORNEYS AFFECTED BY PERSONNEL ACTIONS**

- a. The appropriate head of the Office of Counsel will promptly advise the Chief Counsel when any civilian attorney or law clerk trainee position within USACE is to be abolished, downgraded, or vacated.
- b. When an attorney will be affected by a reduction-in-force (RIF) or other personnel action effecting separation or reduction in grade for reasons unrelated to personal conduct, performance, or qualifications, and the attorney requests placement assistance in obtaining another comparable legal position in USACE, the head of the Office of Counsel shall request expeditious assistance of the Chief Counsel. The requests shall be in writing and include the following information:
  - (1) Application for Federal Employment (SF 171), Optional Application for Federal Employment (OF-612), resume, or other written application;
  - (2) Lowest acceptable grade;
  - (3) Geographic availability; and
  - (4) Scheduled effective date of personnel action.

#### **D-15. REPORTING PERSONNEL ACTIONS**

- a. Notice to the Chief Counsel. A copy of all required SF 50s (Notification of Personnel Action) effecting personnel actions involving a USACE attorney, law clerk trainee or legal intern position shall be forwarded to the Office of the Chief Counsel, ATTN: CECC-ZB, by the appropriate head of the Office of Counsel. Only SF 50s which appoint, reassign, terminate, or promote should be forwarded.
- b. Maintenance of Records. The Chief Counsel is required to maintain records on all USACE civilian attorneys. Individual records will contain the documents listed in paragraphs D-9, D-10, and D-11 above, copies of each SF 50 forwarded in accordance with subparagraph a. above, and any other documents considered necessary by the Chief Counsel. Upon request, these records will be made available to the Army General Counsel, Command Counsel, AMC, and The Judge Advocate General on a temporary loan basis, or for permanent retention when an attorney is selected for another Army assignment.

c. Declination of Offer. The appropriate head of the legal office shall notify the Chief Counsel in writing whenever a USACE attorney declines a position offer.

## **D-16. OUTSIDE EMPLOYMENT OR THE PRIVATE PRACTICE OF LAW**

a. No USACE civilian attorney may engage in the private practice of law, with or without compensation, without the prior written approval of the Chief Counsel. This does not include the infrequent, occasional rendering of legal advice or assistance, without compensation, to personal friends and relatives when not inconsistent with other legal requirements of Federal employment. A request to engage in the private practice of law shall include the following:

(1) To the extent permitted by the Codes of professional responsibility, a detailed description of the proposed private practice;

(2) An explanation of the steps that will be taken to ensure that the private practice will not interfere with job performance during normal duty hours;

(3) A statement from the requestor's immediate supervisor as to whether the proposed private practice will adversely affect the requestor's ability to perform his/her duties and responsibilities;

(4) If the requestor's immediate supervisor is not an attorney, a statement from the head of the appropriate Office of Counsel as to whether the proposed private practice will adversely affect the requestor's ability to perform his/her duties and responsibilities; and,

(5) A statement from the requestor that he/she has read and understands the limitations placed upon the outside practice of law by 18 U.S.C. 203, 205, and 209, the Joint Ethics Regulation (DoD 5500.7-R), and AR 690-200, Chapter 213, paragraph 4-17.

b. The request will be forwarded through command channels to the Office of the Chief Counsel, Attn: CECC-ZB. The Chief Counsel may impose whatever limitations he/she deems necessary and shall limit the approval for a period of time, not to exceed 2 years. If the request is approved, the Chief Counsel shall within 14 days provide a copy of the request and approval to the Army General Counsel.